

SUPREME COURT OF KENTUCKY

Bonnie Jean Nordike, Now Holcomb v. Michael D. Nordike

231 S.W.3d 733 (Ky. 2007) · No. No. 2005-SC-000809-DG · Decided August 23, 2007

SUMMARY

The Supreme Court of Kentucky affirmed the denial of a motion seeking to establish Kentucky jurisdiction over a Kansas child-support decree. The court held that the motion presented no justiciable controversy because the Kansas support decree had not been registered in Kentucky and no motion to enforce or modify support had been filed; the jurisdictional issue was therefore unripe and would have required an advisory opinion.

CASE DETAILS

COURT	Supreme Court of Kentucky
WRITING FOR THE COURT	Justice Noble; Chief Justice Lambert; Justice Cunningham; Justice Minton; Justice Scott; Justice Schroder
JURISDICTION	Kentucky
DECIDED	August 23, 2007
DOCKET	No. 2005-SC-000809-DG
DISPOSITION	affirmed
PROCEDURAL POSTURE	Discretionary review of the Court of Appeals' decision affirming the Warren Circuit Family Court's denial of the appellant's motion to amend an agreed order to establish Kentucky jurisdiction over child-support matters arising from a Kansas decree.
STANDARD OF REVIEW	De novo review of the justiciability and jurisdictional issues presented on discretionary review.
PRECEDENTIAL VALUE	Published Kentucky Supreme Court opinion; precedential.
PARTIES	Bonnie Jean Holcomb, formerly Nordike v. Michael D. Nordike

TOPICS

child support subject matter jurisdiction ripeness family law procedure appellate procedure

PRACTICE AREAS

family law civil procedure appellate procedure military law

QUESTIONS PRESENTED

1. Whether the Warren Circuit Family Court could declare or establish in advance that it would have jurisdiction over a future request to modify the Kansas child-support decree.
2. Whether Holcomb's motion presented a ripe, justiciable controversy when no child-support decree had been registered in Kentucky and no motion to enforce or modify the decree had been filed.
3. Whether the trial court properly denied the motion despite addressing personal jurisdiction before a concrete support-modification claim was presented.

HOLDINGS

1. A Kentucky court may not prospectively determine whether it will have authority to modify a foreign child-support decree when the decree has not been registered in Kentucky and no motion to enforce or modify it has been filed. UIFSA requires the petitioner to seek an actual action concerning registration, enforcement, or modification; it does not authorize a standalone request for an advance jurisdictional declaration.
2. The motion was not justiciable because it made no substantive request for relief and concerned only a possible future child-support modification. An unripe claim or motion does not present a controversy over which the circuit court may exercise authority.
3. The Warren Circuit Family Court properly denied Holcomb's motion, and the Kentucky Court of Appeals properly affirmed, although the lower courts' personal-jurisdiction analysis was premature and not necessarily correct.
4. Kentucky law recognizes distinct concepts of personal jurisdiction, subject-matter jurisdiction, and jurisdiction over a particular case; the latter may depend on compliance with statutory prerequisites and justiciability requirements.

KEY QUOTATIONS

“The Court will not render advisory opinions or consider matters which may or may not occur in the future.”
(739)

“In this case, the motion in question was not justiciable because it made no substantive request for relief.”
(740)

FACTUAL BACKGROUND

Bonnie Jean Holcomb and Michael D. Nordike were divorced in Kansas, where the decree addressed custody and initially required neither party to pay child support. After the parties and child moved among states, the Kansas court entered a child-support order and later purported to transfer jurisdiction to Kentucky. Kentucky accepted jurisdiction over custody and visitation, but no party registered the Kansas child-support decree in Kentucky or filed a motion to enforce or modify it.

PROCEDURAL HISTORY

The parties' Kansas divorce decree established custody and initially imposed no child-support obligation. Kansas later entered a child-support order and subsequently purported to transfer jurisdiction to Kentucky. The Warren Circuit Family Court accepted jurisdiction over custody and visitation but not support, and denied Holcomb's motion to amend the agreed order to include child support. The Court of Appeals affirmed, and the Supreme Court of Kentucky granted discretionary review and affirmed for different reasons.

DISPOSITION

affirmed

CASES CITED

- Wilson v. Russell, 162 S.W.3d 911, 913 (Ky. 2005)
- Commonwealth, Dept. of Highways v. Berryman, 363 S.W.2d 525, 526 (Ky. 1963)
- Milby v. Wright, 952 S.W.2d 202, 205 (Ky. 1997)
- Covington Trust Co. of Covington v. Owens, 278 Ky. 695, 129 S.W.2d 186, 190 (Ky. 1939)
- Duncan v. O'Nan, 451 S.W.2d 626, 631 (Ky. 1970)
- In re Estate of Rougeron, 17 N.Y.2d 264, 271, 270 N.Y.S.2d 578, 217 N.E.2d 639, 643 (N.Y. 1966)
- Petrey v. Cain, 987 S.W.2d 786, 788 (Ky. 1999)
- Doe v. Golden & Walters, PLLC, 173 S.W.3d 260, 275-76 (Ky. App. 2005)
- Pursley v. Pursley, 144 S.W.3d 820, 827 n. 27 (Ky. 2004)
- Richardson v. Richardson, 598 S.W.2d 791, 795 (Tenn. Ct. App. 1980)
- Freeman v. Danville Tobacco Board of Trade, Inc., 380 S.W.2d 215 (Ky. 1964)
- Commonwealth ex rel. Watkins v. Winchester Water Works Co., 303 Ky. 420, 197 S.W.2d 771 (Ky. 1946)
- Veith v. City of Louisville, 355 S.W.2d 295, 297 (Ky. 1962)
- Black v. Elkhorn Coal Corp., 233 Ky. 588, 26 S.W.2d 481, 483 (Ky. 1930)
- Golden & Walters, PLLC, 173 S.W.3d 260, 270 (Ky. App. 2005)